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Unsecured Creditors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In Re:)	Bankruptcy Nos. 02-22906 GEC
)	02-22907 GEC
)	02-24874 GEC
SIMON TRANSPORTATION SERVICES)	
INC., DICK SIMON TRUCKING, INC. and)	(Chapter 11)
SIMON TERMINAL, LLC,)	[SUBSTANTIVELY CONSOLIDATED]
)	
Debtors.)	Judge Glen E. Clark
)	

**UNSECURED CREDITORS' COMMITTEE OBJECTION TO PROOFS OF CLAIM
NOS. 1051 AND 10 FILED BY THE INTERNAL REVENUE SERVICE**

The Official Committee of Unsecured Creditors (the "Committee"), by and through its counsel, Fabian and Clendenin, hereby objects, pursuant to 11 U.S.C. § 502 and Rules 3003 and 3007 of the Federal Rules of Bankruptcy Procedure, to Proofs of Claim Nos. 1051 and 10 filed

filed by the Internal Revenue Service in the above case. In support of the objection, the Committee states:

1. Debtors, Simon Transportation Services, Inc. and Dick Simon Trucking, Inc. filed their voluntary Chapter 11 petitions on February 25, 2002. Simon Terminal, LLC filed a voluntary Chapter 11 petition on March 26, 2002. The cases were jointly administered.

2. On April 22, 2002, the Court entered an order authorizing the sale of substantially all of the Debtors' assets to Central Refrigerated Service, Inc.

3. On March 5, 2002, the Court entered an order fixing August 26, 2002 as the deadline to file proofs of claim.

4. On March 12, 2003, the Court entered its *Order Confirming Amended Joint Plan of Liquidation* ("Confirmation Order") in the above jointly administered cases. Pursuant to the Amended Joint Plan of Liquidation the estates of the Debtors were substantially consolidated, and all property of Debtors vested in a consolidated estate (the "Estate") under the exclusive control of the Committee. The Committee was designated as the representative of the Estate pursuant to 11 U.S.C. § 1123(b)(3)(B) and given all necessary authority to administer the Estate, including the authority to object to claims. See, *Second Amended Joint Plan of Liquidation Dated December 27, 2002*, ¶ 6.4.

5. Based upon the foregoing, the Committee objects to the following claims:

Claim No. 1051 (Case No. 02-22906) and Claim No. 10 (Case No. 02-22097) – Internal Revenue Service

The Internal Revenue Service filed an amended Proof of Claim (claim no. 1051) in the Simon Transportation Services case, (Case No. 02-22906) on or about February 24, 2003, asserting an amount due in the amount of \$29,901.81 for unpaid FICA withholding taxes for the tax period ending June 30, 2002. On April 29, 2003, the IRS filed claim no. 10 in the Dick Simon Trucking case (Case No. 02-22907), asserting a claim for unpaid FICA withholding for the same tax period in the amount of \$6,579.16.

The Committee submits that claim no. 10 amends claim no. 1051. Furthermore, the Estate paid the amount set forth in claim no. 10 on July 7, 2003. The Committee submits there is no further amounts due from the Estate to the Internal Revenue Service and claim nos. 1051 and 10 should be disallowed.

WHEREFORE, the Committee seeks entry of an order disallowing claim nos. 1051 and 10 in their entirety, and for such other and further relief as the Court deems appropriate.

DATED this 18th day of September, 2003.



Peter W. Billings
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed, postage fully prepaid, this 19th day of September, 2003.

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